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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,965	08/27/2001	Kevin O'Rourke	2001P07803US01	5436

7590 04/07/2006

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EXAMINER

VEILLARD, JACQUES

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/939,965		O'ROURKE, KEVIN	
	Examiner		Art Unit	
	Jacques Veillard		2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the application's communication filed on 01/26/2006.
2. Claims 1-20 are pending and presented for examination.
3. In view of further consideration by the examiner, the final rejection of the Office action mailed on July 01, 2005 is withdrawn.
4. In view of the appeal brief filed on January 26, 2006, PROSECUTION IS HEREBY REOPENED. A non-final action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Drawings

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5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 865 and 887 of Fig. 8A. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

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Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said receiving activity" in line 4. In view of the MPEP, alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of the scope or clarity of the claim. Claim 2 raises an uncertainty or ambiguity with respect to the clarity of the claim 1 wherein three types of "receiving activity" have been used. It

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is unclear to which "receiving activity" types applicant referred to, an individual or the combination of all three. If the later, claim 2 appears to be indefinite.

Claims 8 and 9 recite the limitation "said URL data field" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Huerga et al. U. S. Pat. No. 5,903,889).

As per claim 1, de la Huerga et al. disclose a system and method for translating collecting and archiving patient records by providing a collecting data records having a plurality of formats and distributed on a plurality of databases on a computer network (See de la Huerga et al. title and abstract). In particular, de la Huerga et al. disclose the claimed limitations of receiving user entered information identifying at least one patient record to be acquired and a particular section of a patient record to be acquired by providing a data translation and collection system for receive data record from a database (See de la Huerga et al. Fig.13A, step 640, col.4, lines 40-42, col.7, lines 26-31, col.9, lines 31-36, and col.10, lines 26-28); receiving configuration information determining at least one of, (a) a URL of a patient record repository, (b) a proxy server address, (c) user logon information, (d) list of patient to be accessed, (e)

(Col. 15,
line
42-67
&
col. 16,
line
1-26)
hA

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content type of patient record and (f) format of a patient record, de La Huerga et al. disclose the system suggesting at least one or two of those steps such as for example (a) a URL of a patient record repository (See de la Huerga et al. col.8, lines 41-44) and (f) format of a patient record (See de la Huerga et al. col.9, lines 28-30); generating a URL link for accessing a patient record repository by providing an address root permitting user to request data (See de la Huerga et al. Fig. 10 and 10), said generated URL link including an address of said repository and containing fields incorporating said information identifying said particular section of said patient record and said patient record (See de la Huerga et al. col.7, lines 15-17, col.8, lines 41-64, col.9, line 55 through col.10, line 17, lines 43-59).

de la Huerga et al. did not expressly show communicating said generated URL link to an application used for accessing said repository; and receiving said identified particular patient record section in response to said communication.

However, this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The communicating step would be performed the same regardless of the URL link. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see in re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the Applicant's invention was made to communicate the generated URL link, taught by de la Huerga et al., to an application used for accessing a repository; and receiving an identified particular patient record section having any type of content in response to the communication, because such communicating does not functionally relate to the steps in the method claimed and

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because the subjective interpretation of the communicating does not patentably distinguish the claimed invention.

As per claim 2, de la Huerga et al. disclose the claimed limitations of wherein said particular section of said patient record is associated with a particular type of patient medical data and said receiving activity also includes, receiving information identifying a desired format for said patient record to be acquired (See de la Huerga et al. col.2, lines 51-55, and line 65 through col.3, line29, and col.7, lines 19-57).

As per claim 3, de la Huerga et al. disclose the claimed limitations of receiving a patient record content index and said activity of receiving user entered information identifying at least one record to be acquired and a particular section of patient record to be acquired is performed in response user selection of an item in said selection record content index (See de La Huega et al. (See col.13, lines 31-51, and col.14, lines 12-14).

As per claim 4, de la Huerga et al. disclose the claimed limitations of generating a notification indication for display to a user indicating said identified particular patient record section has been received (See de la Huerga et al. col.11, lines 54-62).

As per claim 5, de la Huerga et al. disclose the claimed limitations wherein said received particular patient record section comprises HTML web page representative information (See de la Huerga et al. Figs. 6A, 7A, 8A, 9A, and col.5, lines 30-33, lines 36-38, lines 42-44, lines 49-51).

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As per claim 6, most of the claimed limitations have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of, searching said patient record repository to locate said identified particular patient record section" (See de la Huerga et al. Fig.15A steps 804 and 820, col.7, line 64 through col.8, line16, and col.11, lines50-53). Therefore, it is rejected on similar grounds corresponding to the arguments given for the rejected claim 1 above.

As per claim 17, most of the claimed limitations have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, de la Huerga et al. disclose the claimed limitations of updated patient record information and patient record section identification information; and storing said updated patient record information in a record section identified by said patient record section identification information by modify the patient records using the URL cipher (See de la Huerga et al. col.3, lines 44-50, col.4, lines 17-20, Fig.12B step 596 and col.8, lines 57-61, Fig.13B and col.10, lines 10-14). Therefore, it is rejected on similar grounds corresponding to the arguments given for the rejected claim 1 above.

10. Claims 7-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Huerga et al. U. S. Pat. No. 5,903,889) in view of Frid et al. (U. S. Pat. No. 5,8 57,967).

As per claims 7 and 18, de la Huerga et al. disclose a system and method for translating collecting and archiving patient records by providing a collecting data records having a plurality of formats and distributed on a plurality of databases on a computer network (See de la Huerga et al. title and abstract). In particular, de la Huerga et al. disclose also the system "for providing

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updated patient record information to a patient record information repository” by modify the patient records using the URL cipher (See de la Huerga et al. col.3, lines 44-50, col.4, lines 17-20, Fig.12B step 596 and col.8, lines 57-61, Fig.13B and col.10, lines 10-14). Further, de la Huerga et al. disclose the claimed limitations of “generating a URL link including an address of said repository and containing fields incorporating said updated patient record information and information identifying a particular patient record section and said patient record” by providing a URL cipher used to generate an address to store the designated type of data (See de la Huerga et al. col.7, lines 15-17, col.8, lines 41-64, col.9, line 55 through col.10, line 17, lines 43-59). Furthermore, de la Huerga et al. use an interactive display program to display the communicating said updated patient record information to said information repository at said address using said generated URL link in response to user selection of a displayed menu icon (See de la Huerga et al. col.2, line 43 through col.3, line18, and col.11, lines 6-13).

It is noted, however, de la Huerga et al. did not specifically disclose the system for initiating display of a data collection page for collecting data of a patient associated with a particular patient record selection; storing updated patient record information acquired by user data entry via said data collection page. On the other hand, Frid et al. achieved this claimed features by providing a universally accessible healthcare devices with on the fly generation of HTML files which allows authorized healthcare providers to display data on a page (See Frid et al. title, abstract, Fig.2, col.2, lines 48-50, col.4, lines 38-49, col.5, lines 24-43, and col.6, lines 1-6).

It would have been obvious to a person of ordinary skill in the art at the of the Applicant’s invention to modify the system and method for translating, collecting and archiving

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patient records of de la Huerga et al. by the universally accessible healthcare devices with on the fly generation of HTML files taught by Frid et al. because Frid et al. provide a system having a communication path which provides access to the medical information using an open standard network protocol wherein HTML files may be generated on the fly in response to an HTTP command from a requesting web client in order to display the medical information of patient on a web page (See Frid et al. Fig.2 and col.5, lines 1-39).

As per claim 8, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of receiving a patient medical record content index identifying the particular patient record section (See de La Huerga et al. col.13, lines 39-45, and col.14, lines 12-17), and wherein said activity of communicating said updated patient record information comprises communicating said updated patient record section information via said URL data field to said information repository” (See Frid et al. col.2, lines 61-67).

It would have been obvious to a person of ordinary skill in the art at the of the Applicant’s invention to modify the system and method for translating, collecting and archiving patient records of de la Huerga et al. by the universally accessible healthcare devices with on the fly generation of HTML files taught by Frid et al. because Frid et al. provide a system having a communication path which provides access to the medical information using an open standard network protocol wherein HTML files may be generated on the fly in response to an HTTP command from a requesting web client in order to display the medical information of patient on a web page (See Frid et al. Fig.2 and col.5, lines 1-39).

As per claims 9 and 19, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “including the activity of identifying updated patient record information different from information previously communicated to said information repository; and wherein said activity of communicating said updated patient record information comprises communicating said different updated patient record information via said URL data field to said information repository” (See Frid et al. col.3, line 64 through col.4, line 13).

As per claim 10, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “wherein said data collection page comprises an HTML page” (See Frid et al. Fig.2 and col.5, lines 24-29).

As per claims 11,12, 13, and 20, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of including the activity of time-stamping updated patient record section information acquired by user data entry via said data collection page, storing time-stamped updated patient record section information, and communicating said time-stamped updated patient record section information (See Frid et al. col.4, lines 14-25, Fig.2, and col.5, lines 30-33).

As per claim 14, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “including the activity of communicating said identified

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updated data collection page by Email to a remote application in. response to user selection of a displayed menu icon” (See de la Huerga et al. col.11, lines 54-62).

As per claims 15 and 16, the combination of de la Huerga et al. and Frid et al., as modified, discloses the claimed limitations of “including the activity of providing a menu supporting user customization of a data collection page for a particular patient” (See de la Huerga et al. Figs 6A, 7A, 8A, 9A, 14D and corresponding text).

Other Prior Art Made Of Record

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Points Of Contact

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (571) 272-4086. The examiner can normally be reached on Mon. to Fri. from 9 AM to 4:30 PM, alt. Fri. off..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272- 4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER


J.V

Jacques Veillard
Patent Examiner TC 2100

March 31, 2006